

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.644 OF 2004

Kumar Vikram Vilas Jadhav & Anr. ...Appellants

vs.

Baban Subhedra Jadhav ...Respondent

Mr.L.S.Gaikwad for the Appellants
Ms A.R.S.Baxi for the Respondent

CORAM: A.S.OKA, J.
DATED: AUGUST 2, 2006.

P.C.:

1. Heard Advocates for the parties. The Appellants are the original Plaintiffs and the Respondent is the original Defendant. The deceased father of the Appellants and the Respondent were the real brothers. The Respondent was the elder brother of the deceased father of the Appellants. A suit is filed by the Appellants contending that their deceased father purchased the suit property and the suit property is the self acquired property of their deceased father. The Trial Court decreed the suit by holding that the property is the self acquired property of the father of the Appellants. The Appellate Court has set aside the said decree.

2. The learned Advocate for the Appellants submitted that the registered sale deed executed in the year 1977 stands in the name of the father of the Appellants and in absence of

any evidence led by the Respondent to show the existence of the nucleus of the joint family, the property is to be treated as the self acquired property of the Appellants' father. He submitted that the Respondent has constructed 9 rooms on the said property and he has no right to retain the possession of the same.

3. I have considered the submissions. The Appellate Court has recorded a finding of fact that on the date of acquisition, the age of father of the Appellants was hardly 16 to 17 years. On the basis of evidence on record, the finding of fact has been recorded that the business of poultry was a joint family business of the parties and the suit plot has been purchased from the joint family income.

4. I find no reason to interfere with the impugned Judgment. No fault can be found with the finding which is based on appreciation of oral and documentary evidence on record. No substantial question of law arises. Second Appeal is dismissed with no order as to costs.

Judge.